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99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
99-536

APR

H.R. 148

PANAMA CANAL COMMISSION AUTHORIZATION ACT, FISCAL YEAR 1987

APRIL 16, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 4409]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 4409) to authorize appropriations for fiscal year 1987 for the operation and maintenance of the Panama Canal, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On pages 4 and 5, strike all of section 5 of the bill and insert the following new section 5, as follows:

SEC. 5. AUTHORIZATION OF SIX ADDITIONAL CITIZENS OF THE REPUBLIC OF PANAMA TO RECEIVE INSTRUCTION AT THE UNITED STATES MERCHANT MARINE ACADEMY.

Strike section 1303(b)(7) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295(b)(7)) and substitute the following:

"(7)(A) The Secretary may annually permit, until September 30, 1995, upon approval of the Secretary of State, up to six additional individuals from the Republic of Panama to receive instruction at the Academy, in addition to those individuals appointed under paragraphs (3), (4), (5), and (6) of this subsection.

"(B) The Secretary shall insure that the Republic of Panama reimburse the Secretary for the cost of that instruction (including the same allowances as received by cadets at the Academy appointed from the United States) as determined by the Secretary.

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"(C) An individual receiving instruction at the Academy under this paragraph shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as cadets at the Academy appointed from the United States.

"(8) An individual appointed as a cadet under paragraph (3), or receiving instruction under paragraph (4), (5), (6), or (7) of this subsection is not entitled to hold a license authorizing service on a merchant marine vessel of the United States solely by reason of graduation from the Academy.".

PURPOSE

The purpose of H.R. 4409 is to authorize appropriations from the Panama Canal Commission Fund for the operation and maintenance of the Panama Canal and for other activities pertinent to the Panama Canal. In addition to the Rules of the House of Representatives, which require appropriations to be authorized, Section 1302(c)(1) of the Panama Canal Act of 1979 (22 U.S.C. 3712(c)(1)) specifically requires that no funds may be appropriated, obligated, or expended to or by the Panama Canal Commission unless specifically authorized by law.

LEGISLATIVE HISTORY

On March 6, 1986, the Honorable Mike Lowry, Chairman of the Subcommittee on Panama Canal/Outer Continental Shelf, chaired a hearing on the fiscal year 1987 budget of the Panama Canal Commission (PCC).

The witnesses before this Subcommittee hearing were the Honorable William P. Gianelli, Chairman of the Board of the Panama Canal Commission; the Administrator of the PCC, Dennis P. McAuliffe; the Secretary of the PCC, Michael Rhode, Jr.; and the Chief Financial Officer of the PCC, Richard O. Burgoon. The Committee witnesses stated the Administration's budget request for the operation and maintenance of the canal for FY 1987 was $437,250,000, out of which $27,480,000 was to be for capital outlays. Further testimony indicated that tolls and other revenues were projected to be $447,000,000 in 1987. Out of these revenues $10 million would be automatically transferred to the U.S. Treasury as interest on the U.S. investment in the canal.

The witnesses further testified that the Balanced Budget and Emergency Deficit Control Act of 1985, the Gramm-Rudman-Hollings Act (P.L. 99-177), would reduce the PCC's 1986 budget appropriation by $18.3 million. Because of Article XIII, Paragraph 4(c) of the Panama Canal Treaty of 1977, this $18.3 million of unexpended revenues would go to the Republic of Panama. The witnesses stated that the $18.3 million cut would seriously impair the maintenance of the canal but would not reduce the U.S. deficit because of the Treaty requirement to transfer to Panama the unexpended revenues of up to $10 million per year. In addition, this requirement has a cumulative effect which means that Panama could be entitled to up to $53 million in "profit payments" as of the end of FY 1985. The PCC witnesses favored legislation, and testified that the

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Administration would not object to legislation, which exempted the PCC from the Gramm-Rudman-Hollings Act. Chairman Gianelli stated his support for H.R. 4246, legislation introduced by the Honorable Jack Fields on February 26, 1986 which amends the Panama Canal Act of 1979 to exempt the PCC from the Gramm-Rudman-Hollings Act if the implementation of the Act would result in payment of monies to the Republic of Panama.

The witnesses further responded to Subcommittee questions about the progress being made toward the training of Panamanians, especially canal pilots, to occupy all positions in the PCC by the year 2000, when the Republic of Panama will operate the canal. The data on pilot training supplied to the Subcommittee indicated a need to begin training more Panamanians now in order to fill adequately the pilot positions by the year 2000.

On may 13, 1986, Chairman Lowry introduced H.R. 4409, the PCC Authorization Act, FY 1987, which included: (1) the Administration's request for FY 1987 funds, and (2) a provision identical to H.R. 4246, exempting the PCC from the Gramm-Rudman-Hollings Act, and (3) the Secretary of Transportation's request to increase the number of Panamanian citizens allowed to receive instruction at the U.S. Merchant Marine Academy in order to better prepare the Republic of Panama for the transfer of the Panama Canal in the year 2000.

The Subcommittee met on March 19, 1986, and unanimously reported H.R. 4409 without change to the full Committee. During Full Committee consideration on April 9, Congressman Biaggi requested that technical and conforming amendments be made to section 5 (training of Panamanian citizens at the United States Merchant Marine Academy). The Committee agreed to the request and then ordered reported H.R. 4409, as amended, by voice vote.

Background and Need

The Panama Canal is a 50-mile-long lock canal through which ships can pass between the Atlantic and Pacific Oceans, using three sets of locks and the man-made Gatun Lake. The Canal, which was built by the United States at the turn of the century, was maintained and operated by a U.S. Government agency called simply "The Panama Canal" from 1912 until 1951. The agency was responsible not only for maintenance and operation of the Canal, but also for the Government of the Canal Zone. Both of these activities were financed by direct appropriations, and tolls for the use of the Canal were paid into the Treasury as miscellaneous receipts.

In 1950, in anticipation of a proposed toll rate increase of approximately 10 percent (from 90 cents to $1 per ton), responsibility for operation of the Panama Canal was transferred from the agency known as The Panama Canal to the Panama Railroad Company, renamed the Panama Canal Company (Company). The agency formerly known as The Panama Canal was renamed the Canal Zone Government and continued in existence in non-corporation form for the performance of duties associated with the Government of the Canal Zone.

The 1950 legislation gave the Company power to establish tolls for the use of the Canal, subject to approval by the President,

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based on a formula to recapture, either from tolls or other revenues, all costs of operation of the Canal and related facilities as determined in accordance with the other provisions of the Company's charter.

On September 7, 1977, the United States and Panama signed the Panama Canal Treaty. Seven months later, the Treaty was ratified by the Senate in April of 1978. The Treaty details the transfer of Canal operations and property from the United States to Panama, culminating on December 31, 1999, when the last transfer will take place. The Treaty states that the United States shall carry out its responsibilities of Canal operation and management by means of a U.S. Government agency called the Panama Canal Commission (Commission), which shall be constituted by and in conformity with the laws of the United States.

On September 27, 1979, the President signed H.R. 111 as Public Law 96-70, the Panama Canal Act of 1979. This law implements the provisions of the Panama Canal Treaty, including provisions that establish the Panama Canal Commission as an appropriated fund federal agency. The Commission has an American Administrator and a Panamanian Deputy Administrator through the year 1990 when the positions will be reversed. The agency has a Supervisory Board of nine members appointed by the President of the United States. Four members are recommended by Panama and five by the United States, with an American serving as the Chairman of the Board.

P.L. 96-70 also created the Panama Canal Commission Fund in the U.S. Treasury from which all appropriations are made to the PCC. The tolls and fees charged by the Commission to the users of the canal are deposited into the PCC Fund, and each year Congress appropriates these revenues to the PCC for the operations of the canal. P.L. 96-70 requires that all costs of the canal operations be covered by the revenues, rather than by U.S. taxpayer funds.

Section-by-Section Analysis

Section 1

This section states that the Act is cited as the "Panama Canal Commission Act, Fiscal Year 1987".

Section 2

This section authorizes appropriations of $437,250,000, for the fiscal year 1987, from the Panama Commission Fund (PCC Fund) to the Panama Canal Commission (PCC) for the operation and maintenance of the Panama Canal as required by Section 1101 of the Panama Canal Act of 1979 (the Act).

The three basic categories of operations expenses are transit, support, and administrative. The transit expenses include items such as maintenance of channels, navigation services, and lock operations which are estimated to cost $283.5 million in FY 1987. Support expenses cover items such as supplies, transportation, power, and housing, estimaed to cost $70 million. Administrative expenses are expected to be $83 million. Treaty payments to Panama, included in the above expenses, are expected to be $78 million.

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The 1987 estimates for tolls income is $312 million, and the estimate for other revenues (navigation services, utilities, fire protection services, housing rentals, booking fees) is $132 million.

This section also specifically authorizes eight categories of expenses, required by law to be specifically authorized, which are: (1) the hire of motor vehicles and aircraft; (2) the purchase of large, heavy duty passenger vehicles over the GSA price limitations if approved in the appropriation; (3) the expenditure of not more than $43,000 for official receptions and expenses, of which $10,000 is for the Board, $5,000 for the Secretary, and $28,000 for the Administrator; (4) the procurement of consultant and expert services; (5) the residence for the Administrator; (6) the uniforms and allowances authorized by 5 U.S.C. 5901 and 5902; (7) the disbursements for employee recreation and community projects, and (8) the operation of guide services.

Section 3

This section provides that no more than $27,480,000 of the total amount authorized in Section 2 may be spent on capital outlays, and this amount may remain available until expended.

Section 4

This section, in addition to the amount authorized in Section 2, authorizes such amounts as may be necessary for increases in salary, pay, retirement, employee benefits provided by law, Article XIII, 4(a) Treaty payments to Panama, and increased fuel costs.

Section 5

This section amends Section 1303 of the Merchant Marine Act of 1936 to authorize annually six additional individuals of the Republic of Panama to receive instruction at the U.S. Merchant Marine Academy until the year 1995. The Secretary of Transportation, who operates the Academy, shall insure reimbursement from the Republic of Panama for the cost of that instruction.

Section 1303(b)(6) authorizes the Secretary of Transportation to permit up to 30 foreign nationals to receive training at the Academy on a reimbursible basis. The legislative history of 1303(b)(6) indicates that not all 30 appointments should be made from the same foreign country. Section 1303 is, therefore, amended by inserting a new paragraph, which allows the Secretary to permit annually, until the year 1995, six additional Panamanians to the Academy, on a reimbursible basis. By adding this provision, it is not the Committee's intention to preclude Panamanians from those authorized by Section 1303(b)(6).

The Secretary has requested this legislative amendment to meet the requirement of the Panama Canal Treaty of 1977, in which the U.S. agrees to assist in the training of Panamanian nationals to take over total operating control of the Panama Canal by the year 2000.

Section 6

This section amends Section 1341 of the PCC Act by adding at the end a new subsection that exempts the PCC from the Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings Act) if the

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implementation of the Act would result in a payment of monies to the Republic of Panama under Paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977.

Article XIII, Paragraph 4(c) of the Treaty states that an annual payment up to $10 million is to be paid to the Republic of Panama to the extent revenues exceed expenditures. If a 4(c) payment in a given year is less than $10 million, the unpaid balance carries over to succeeding years. The Gramm-Rudman-Hollings Act reduces the PCC appropriation resulting in revenues exceeding expenditures. These surplus revenues must be paid to Panama, as required by the Treaty.

Section 6 requires, notwithstanding any other provision of law, that no reduction of funds under any other provision of law, that no reduction of funds under any order issued pursuant to the Gramm-Rudman-Hollings Act, shall be applied to the PCC, if the order results in the payment of any monies to Panama under Article XIII, Paragraph 4(c) of the Treaty.

This section incorporates the language of H.R. 4246 as introduced by the Subcommittee's Ranking Minority Member, Representative Fields.

Inflationary Impact Statement

Pursuant to Clause 2(l)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 4409 will have no significant affect on process and costs in the operation of the national economy.

Compliance With Clause 2(l)(3) of Rule XI

In compliance with Clause 2(l)(3) of Rule XI of the House of Representatives:

(A) in the consideration of H.R. 4409 the Committee made no new oversight findings and recommendations within the meaning of Clause 2(b)(1) of Rule X;

(B) the requirements of H.R. 4409 contain no new budget authority or increased tax expenditures reportable under Section 308(a) of the Congressional Budget Act of 1974;

(C) the Committee on Government Operations has sent no report to the Committee on Merchant Marine and Fisheries pursuant to Clause (4)(c)(2) of Rule X, and;

(D) the estimate and comparison prepared by the Director of the Congressional Budget Office under Section 403 of the Congressional Budget Act of 1974 is set out below.

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 15, 1986.

Hon. Walter B. Jones,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Longworth House Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 4409, the Panama Canal Commission Authorization Act, Fiscal Year 1987.

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If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 4409.

2. Bill title: Panama Canal Commission Authorization Act, Fiscal year 1987.

3. Bill status: As ordered reported by the House Committee on Merchant Marine and Fisheries, April 9, 1986.

4. Bill purpose: The bill authorizes the appropriation of $437.3 million from the Panama Canal Commission Fund for operating and capital expenses of the Panama Canal Commission in fiscal year 1987. In addition, the bill authorizes such sums as may be necessary for increases in employee benefits authorized by law and for increased costs for fuel expenses, and for covering payments to Panama under paragrpah 4(a) of Article XIII of the Panama Canal Treaty of 1977. Section 5 of the bill amends the Merchant Marine Act of 1936, allowing the Secretary of Transportation to admit up to six additional citizens from the Republic of Panama to the Merchant Marine Academy each year.

Section 6 exempts Panama Canal Commission appropriations from the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), if sequestration would result in a payment to the Republic of Panama pursuant to Article XIII of the Panama Canal Treaty of 1977. This exemption is effective in fiscal year 1986.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1986	1987	1988	1989	1990	1991
Direct spending:						
Estimated budget authority	18.3					
Estimated outlays	15.9	2.4				
Authorization for operating expenses:						
Estimated authorization level		444.3				
Estimated outlays		388.7	55.6			
Payment to Panama:						
Estimated authorization level		13.1				
Estimated outlays		13.1				

Including outlays from prior years' budget authority, total 1987 outlays for operating expenses are estimated to be about $450 million, assuming the appropriation of the amount authorized by this bill.

The costs of this bill fall within budget function 400.

Basis of estimate: It is assumed that all funds authorized will be appropriated for fiscal year 1987. To the $437.3 million specifically authorized by H.R. 4409, an estimated $7 million was added for increases in employee benefits authorized by the bill. Using CBO's baseline assumptions, the figure was projected at 3.3 percent of the fiscal year 1987 pay and benefit levels authorized in the bill. No

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additional amount was estimated or added for increases in fuel expenses.

Under current law, $18.3 million in budget authority is sequestered from the fiscal year 1986 appropriation. As a result, outlays are expected to be approximately $13.1 million less than the estimated $430.1 million in receipts. The $13.1 million would have to be paid to the Republic of Panama pursuant to paragraph 4(a) of Article XIII of the Panama Canal Treaty of 1977. Because the bill exempts Panama Canal Commission appropriations from sequestration under Public Law 99-177, its enactment would result in increased spending in 1986, thus climinating the surplus currently projected for fiscal year 1986. As a result, CBO estimates that a payment to Panama would not have to be made in fiscal year 1987, as outlays for fiscal year 1986 would exceed receipts by approximately $3 million. The 1987 savings are estimated to be $13.1 million.

We estimate that Section 5 will not result in any cost to the federal government, since the Republic of Panama would be required to reimburse the Secretary of Transportation for the cost of instruction and allowances.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Keith Chase.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Departmental Reports

No reports were received on H.R. 4409 at the time this report was filed.

Changes in Existing Law

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Merchant Marine Act, 1936

TITLE XIII—MARITIME EDUCATION AND TRAINING

94 Stat. 1997 (46 App. U.S.C. 1295)

Section 1303(b)(7)

[(7) Any individual appointed as a cadet to the Academy under paragraph (3), or receiving instruction at the Academy under paragraph (4), (5), or (6), is not entitled to hold any license authorizing service on any merchant marine vessel of the United States solely by reason of graduation from the Academy.]

(7)(A) The Secretary may annually permit, until September 30, 1995, upon approval of the Secretary of State, up to six additional

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individuals from the Republic of Panama to receive instruction at the Academy, in addition to those individuals appointed under paragraphs (3), (4), (5), and (6) of this subsection.

(B) The Secretary shall insure that the Republic of Panama reimburse the Secretary for the cost of that instruction (including the same allowances as received by cadets at the Academy appointed from the United States) as determined by the Secretary.

(C) An individual receiving instruction at the Academy under this paragraph shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as cadets at the Academy appointed from the United States.

(8) An individual appointed as a cadet under paragraph (3), or receiving instruction under paragraph (4), (5), (6), or (7) of this subsection is not entitled to hold a license authorizing service on a merchant marine vessel of the United States solely by reason of graduation from the Academy.

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22 U.S.C. 3751

§ 3751. Payments to Republic of Panama

(a) PAYMENTS REQUIRED UNDER PANAMA CANAL TREATY; ANNUAL AUDIT.—

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(f) PROHIBITIONS.—The prohibitions contained in this section and in sections 3712(c) and 3783 of this title shall apply notwithstanding any other provision of law authorizing transfers of funds between accounts, reprograming of funds, use of funds for contingency purposes, or waivers of prohibitions.

(g) Notwithstanding any other provision of law, no reduction under any order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 shall apply to the Commission if the implementation of such an order would result in a payment to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 and this section.

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